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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. ID-2004 64023

AMY NICOLE KNIGHT
859 Celebration Drive
Milpitas, CA 95035

A C C U S A T I O N

Physical Therapist License No. PT 23448

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about August 31, 1998, the Physical Therapy Board of California issued Physical Therapist License Number PT 23448 to AMY NICOLE KNIGHT ("Respondent" or "Knight"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2005, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2630 of the Code states:

“It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

“Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500). A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide , excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as,

1 and in proximity to, the location where the aide is performing patient-related tasks, and
2 shall be readily available at all times to provide advice or instruction to the aide. When
3 patient-related tasks are provided to a patient by an aide, the supervising physical
4 therapist shall, at some point during the treatment day, provide direct service to the
5 patient as treatment for the patient's condition, or to further evaluate and monitor the
6 patient's progress, and shall correspondingly document the patient's record.

7 “The administration of massage, external baths, or normal exercise not a part of a
8 physical therapy treatment shall not be prohibited by this section”.

9 6. Section 2660 of the Code states:

10 “The board may, after the conduct of appropriate proceedings under the
11 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
12 impose probationary conditions upon, or issue subject to terms and conditions any
13 license, certificate, or approval issued under this chapter for any of the following causes:

14 . . .

15 (h) Gross negligence in his or her practice as a physical therapist or
16 physical therapy assistant.

17 (i) . . . violating, or attempting to violate, directly or indirectly, or
18 assisting in or abetting the violating of, or conspiring to violate any provision or
19 term of this chapter or of the State Medical Practice Act.

20 (j) The aiding or abetting of any person to violate this chapter or any
21 regulations duly adopted under this chapter.

22 (k) The aiding or abetting of any person to engage in the unlawful practice
23 of physical therapy.

24 (l) The commission of any fraudulent, dishonest, or corrupt act which is
25 substantially related to the qualifications, functions, or duties of a physical
26 therapist or physical therapy assistant.

27 7. Section 2655 of the Code states:

28 “As used in this article:

1 (a) "Physical therapist" means a physical therapist licensed by the board.

2 (b) "Physical therapist assistant" means a person who meets the
3 qualifications stated in Section 2655.3 and who is approved by the board to assist
4 in the provision of physical therapy under the supervision of a physical therapist
5 who shall be responsible for the extent, kind, and quality of the services provided
6 by the physical therapist assistant.

7 (c) "Physical therapist assistant" and "physical therapy assistant" shall be
8 deemed identical and interchangeable.

9 8. Section 2655.2 of the Code states:

10 "A physical therapist shall not supervise more physical therapist assistants
11 at any one time than in the opinion of the board can be adequately supervised.
12 Two physical therapist assistants shall be the maximum number of physical
13 therapist assistants supervised by a physical therapist at any one time, but the
14 board may permit the supervision of a greater number by a physical therapist if, in
15 the opinion of the board, there would be adequate supervision and the public's
16 health and safety would be served. In no case, however, shall the total number of
17 physical therapist assistants exceed twice the number of physical therapists
18 regularly employed by a facility at any one time."

19 9. Section 2655.7 of the Code states:

20 "Notwithstanding Section 2630, a physical therapist assistant may assist in
21 the provision of physical therapy service provided the assistance is rendered under
22 the supervision of a physical therapist licensed by the board."

23 10. Section 2655.92 of the Code states:

24 "The board may adopt regulations as reasonably necessary to carry out the
25 purposes of this article. The board shall adopt a regulation formulating a
26 definition of the term "adequate supervision" as used in this article."

27 11. Section 1398.44 of Title 16 of the California Code of Regulations states:

28 "1398.44. Adequate Supervision Defined.

1 “A licensed physical therapist shall at all times be responsible for all physical
2 therapy services provided by the physical therapist assistant. The supervising
3 physical therapist has continuing responsibility to follow the progress of each
4 patient, provide direct care to the patient and to assure that the physical therapist
5 assistant does not function autonomously. Adequate supervision shall include all
6 of the following:

7 (a) The supervising physical therapist shall be readily available in person
8 or by telecommunication to the physical therapist assistant at all times while the
9 physical therapist assistant is treating patients. The supervising physical therapist
10 shall provide periodic on site supervision and observation of the assigned patient
11 care rendered by the physical therapist assistant.

12 (b) The supervising physical therapist shall initially evaluate each patient
13 and document in the patient record, along with his or her signature, the evaluation
14 and when the patient is to be reevaluated.

15 (c) The supervising physical therapist shall formulate and document in
16 each patient's record, along with his or her signature, the treatment program goals
17 and plan based upon the evaluation and any other information available to the
18 supervising physical therapist. This information shall be communicated verbally,
19 or in writing by the supervising physical therapist to the physical therapist
20 assistant prior to initiation of treatment by the physical therapist assistant. The
21 supervising physical therapist shall determine which elements of the treatment
22 plan may be assigned to the physical therapist assistant. Assignment of these
23 responsibilities must be commensurate with the qualifications, including
24 experience, education and training, of the physical therapist assistant.

25 (d) The supervising physical therapist shall reevaluate the patient as
26 previously determined, or more often if necessary, and modify the treatment, goals
27 and plan as needed. The reevaluation shall include treatment to the patient by the
28 supervising physical therapist. The reevaluation shall be documented and signed

1 by the supervising physical therapist in the patient's record and shall reflect the
2 patient's progress toward the treatment goals and when the next reevaluation shall
3 be performed.

4 (e) The physical therapist assistant shall document each treatment in the
5 patient record, along with his or her signature. The physical therapist assistant
6 shall document in the patient record and notify the supervising physical therapist
7 of any change in the patient's condition not consistent with planned progress or
8 treatment goals. The change in condition necessitates a reevaluation by a
9 supervising physical therapist before further treatment by the physical therapist
10 assistant.

11 (f) Within seven (7) days of the care being provided by the physical
12 therapist assistant, the supervising physical therapist shall review, cosign and date
13 all documentation by the physical therapist assistant or conduct a weekly case
14 conference and document it in the patient record. Cosigning by the supervising
15 physical therapist indicates that the supervising physical therapist has read the
16 documentation, and unless the supervising physical therapist indicates otherwise,
17 he or she is in agreement with the contents of the documentation.

18 (g) There shall be a regularly scheduled and documented case conference
19 between the supervising physical therapist and physical therapist assistant
20 regarding the patient. The frequency of the conferences is to be determined by the
21 supervising physical therapist based on the needs of the patient, the supervisory
22 needs of the physical therapist assistant and shall be at least every thirty calendar
23 days.

24 (h) The supervising physical therapist shall establish a discharge plan. At
25 the time of discharge, or within 7 (seven) days thereafter, a supervising physical
26 therapist shall document in the patient's record, along with his or her signature, the
27 patient's response to treatment in the form of a reevaluation or discharge
28 summary.”

12. Section 1399 of Title 16 of the California Code of Regulations states:

1399. Requirements for Use of Aides.

“A physical therapy aide is an unlicensed person who assists a physical therapist and may be utilized by a physical therapist in his or her practice by performing non-patient related tasks, or by performing patient related tasks.

(a) As used in these regulations:

(1) A "patient related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient related tasks as defined below.

(2) A "non-patient related task" means a task related to observation of the patient, transport of patients, physical support only during gait or transfer training, housekeeping duties, clerical duties and similar functions.

(b) "Under the orders, direction and immediate supervision" means:

(1) Prior to the initiation of care, the physical therapist shall evaluate every patient prior to the performance of any patient related tasks by the aide. The evaluation shall be documented in the patient's record.

(2) The physical therapist shall formulate and record in the patient's record a treatment program based upon the evaluation and any other information available to the physical therapist, and shall determine those patient related tasks which may be assigned to an aide. The patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks.

(3) The physical therapist shall assign only those patient related tasks that can be safely and effectively performed by the aide. The supervising physical therapist shall be responsible at all times for the conduct of the aide while he or she is on duty.

(4) The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as and

1 in immediate proximity to the location where the aide is performing patient
2 related tasks, and shall be readily available at all times to provide advice or
3 instruction to the aide. When patient related tasks are provided a patient by an aide
4 the supervising physical therapist shall at some point during the treatment day
5 provide direct service to the patient as treatment for the patient's condition or to
6 further evaluate and monitor the patient's progress, and so document in the
7 patient's record.

8 (5) The physical therapist shall perform periodic re-evaluation of
9 the patient as necessary and make adjustments in the patient's treatment program.
10 The re-evaluation shall be documented in the patient's record.

11 (6) The supervising physical therapist shall countersign with their
12 first initial and last name, and date all entries in the patient's record, on the same
13 day as patient related tasks were provided by the aide.

14 13. Section 2661.5 (a) of the Code states:

15 "In any order issued in resolution of a disciplinary proceeding before the
16 board, the board may request the administrative law judge to direct any licensee
17 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
18 actual and reasonable costs of the investigation and prosecution of the case".

19 EVENTS, ACTS OR OMISSIONS

20 14. On or about April 21, 2003, the Physical Therapy Board of California
21 received a complaint from John Nativio, Physical Therapy Advisor, Blue Shield of California,
22 alleging that documentation submitted by Washington Outpatient Rehabilitation Center to Blue
23 Shield of California, which included billing for physical therapy services provided by a Physical
24 Therapy Assistant ("PTA"), lacked the required co-signatures of a Supervising Physical
25 Therapist. The Division of Investigation ("DOI") thereafter conducted an investigation on behalf
26 of the Board.

27 15. As part of the investigation, DOI investigators interviewed Nelson Mant
28 Tumanda, PTA 6004, who indicated as follows:

1 A. Tumanda identified himself as the PTA signing as “James
2 Tumanda” in the records. Tumanda described his duties as assisting PTs with patient treatment
3 plans. Tumanda stated that he believed the standard of practice was to have a PT first see and
4 evaluate the patient. Tumanda said the patients assigned to him were and are, routinely seen first
5 and evaluated by a PT who develops their plan of care. If there was no significant therapy or
6 supervision required, the patient was transferred to Tumanda who carried out the PT’s plan of
7 care.

8 B. Tumanda stated that his patients are listed under his name in the
9 appointment schedule. Although his schedule varied, he carried a caseload of about twenty
10 patients a day and often worked a 10 hours day. Tumanda stated that the ideal schedule is two
11 patients every half-hour; however, his schedule was half that because he worked alone. Tumanda
12 said a PT was usually in the clinic during business hours; however, he admitted there were days
13 when no PT was present, for instance, when a PT called in sick.

14 16. As part of the investigation, DOI investigators interviewed respondent
15 Knight, who indicated as follows:

16 A. Knight said she provided physical therapy to patients requiring
17 orthopedic care, usually treating the lower back. She also provided physical therapy to patients
18 recovering from hip surgery. Knight stated that as a physical therapist (“PT”), she completed the
19 initial evaluation and assessment on a patient’s first visit. She might provide treatment
20 depending on the patient. Treatment included exercises, stretches, education, heat, ice,
21 ultrasound, electrical stimulation, pool, home program and soft tissue work. Approximately once
22 a month, Knight re-assessed the patients and completed an evaluation form. Knight stated that
23 she had been employed at the clinic longer than any other PT. She provided supervision to
24 assistants and aides who provided exercise heat, ice and ultrasound treatments. Knight stated
25 that aides and assistants did not provide education, neither did they perform hands-on treatments.
26 Knight stated that appointments were made for new patients under her schedule. After
27 assessments, Knight might decide to refer the patient to the PTA who did not carry a caseload as
28 heavy as those of the PTs. Knight stated it was not the standard for a PTA to do pre-interviews

1 of the patients and they did not complete the pre-interview forms. A PTA might see a patient
2 before a PT in an emergency situation. Knight stated a situation like that might have occurred no
3 more than three times in one year. A physical therapy assistant could complete progress reports
4 but could not assess patients. Knight stated she might re-assess the patient once a month or at
5 every visit depending on the patient's condition. Knight said she always worked with the aides
6 and assistants as a team. They always discussed their patients with her.

7 17. Physical Therapy Board consultants and investigators subsequently
8 conducted a records audit at Washington Outpatient Rehabilitation Center. Charts for Patients
9 identified as Patients 5, 6, 10, 12, 13 and 14 were reviewed¹.

10 18. A review of Patient 5's record revealed that on 09/04/03, Knight
11 completed an evaluation and visit note signed with an illegible signature. Legible signatures are
12 required for proper identification of the PT.

13 19. A review of Patient 6's record revealed an undated, unsigned, Spine
14 Evaluation which was subsequently acknowledged by Knight as her charting. The record also
15 contained Flow Chart Treatment Notes dated 01/06/03 and 01/09/03 with illegible signatures,
16 which were subsequently acknowledged by Knight as her signatures. Patient 6's record also
17 revealed a Flow Chart Treatment Note dated 01/13/03 signed by Tumanda with no co-signature
18 by a Supervising PT. The progress/discharge summary dated 01/23/03 was also signed by
19 Tumanda with no co-signature by a Supervising PT.

20 20. A review of Patient 10's record revealed that on 03/10/03, Knight signed a
21 Lower Extremity Evaluation Form with an illegible signature. On 03/13/03, 03/13/03, 04/28/03,
22 and 05/01/03, Knight signed Flow Chart Treatment Notes with an illegible signature. Flow Chart
23 Treatment Notes dated 03/18/03, 03/20/03, 03/25/03, 03/27/03, 04/01/03, 04/03/03, 04/08/03,
24 04/10/03, 04/22/03, and 04/24/03 were signed by Michael Kwong, PTA with no co-signature(s)
25 by a Supervising PT.

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28 1. Names of patients were redacted from the physical therapy records and replaced with a
letter or number as an identifier.

21. A review of Patient 12's record revealed that on 04/16/01, Knight signed a Upper Extremity Evaluation Form with an illegible signature. On May 1, 2002, Knight added a note under Tumanda's note of the same date on the Flow Chart Treatment Notes. The Flow Chart Treatment Notes of February 3, 6, 10, 12, 19, 2002, October 8, 15, 22, 25, 2002, and May 1, 6, 9, 14, 16, 20, 22, 24, 2002, were recorded and signed by Tumanda with no co-signature by a supervising physical therapist. Further, five Physical Therapy Progress Evaluations (and Reports) (03/03/03, 02/03/03, 10/28/02, 05/28/02, 05/15/01), were performed, charted and signed by Tumanda without a co-signature by a supervising physical therapist. (Only a physical therapist may perform a progress evaluation). Moreover, for the patient visits on 02/03/03, 02/10/03, 02/19/03 and 03/03/03, Knight was on the same work schedule those days, but did not countersign Tumanda's signatures.

22. A review of Patient 13's record revealed that three Physical Therapy Progress Evaluations (and Reports) (10/14/02, 08/07/02, 06/24/02) were performed and signed by Tumanda, with a co-signature by Knight as the supervising physical therapist. (However, only a physical therapist may perform a progress evaluation). The record further revealed that on June 14, 17, 19, 21, 28, 2002, July 2, 23, 24, 26, 29, 2002, and August 2, 2002, the Flow Chart Treatment Notes were recorded and signed by Tumanda with no co-signature by a supervising physical therapist. Knight was present on many of Patient 13's patient visits.

23. A review of Patient 14's record revealed a Physical Therapy Progress Evaluations (and Report) (08/15/02) signed by Tumanda with a co-signature by Knight as the supervising physical therapist. (However, only a physical therapist may perform a progress evaluation). The record also indicates that on 10/22/01, 10/24/01, and 04/05/02, Knight signed Flow Chart Treatment Notes with an illegible signature. The record also indicates that the initial Lower Extremity Evaluation (and Form) (12/03/02), and six Physical Therapy Progress Evaluations (and Reports) (05/29/03, 02/28/03, 01/03/03, 08/15/02, 02/15/02, 12/06/01), were performed by "James," aka Tumanda, with no co-signature by the Supervising PT. In addition, almost all of the treatments were performed by "James," aka Tumanda. The treatment dates on which Tumanda charted treatment provided to Patient 14 on the Flow Chart Treatment Notes

1 without having a co-signature from his supervising physical therapist included 110 dates between
2 11/06/01 and 05/21/03, inclusive.

3 24. On July 1, 2002, Knight worked on numerous patients and utilized
4 numerous aides, without proper supervision.

5 CAUSES FOR DISCIPLINARY ACTION

6 25. Respondent is subject to disciplinary action based upon the events, acts, or
7 omissions, set forth hereinabove, pursuant to Business and Professions Code sections: 2660 (h);
8 and/or 2660 (i); and/or 2660 (j); and/or 2660 (k); and/or for violating or attempting to violate, or
9 assisting in or abetting the violating of, or aiding or abetting or conspiring to violate, section 2630
10 of the Code and/or section 1399 of Title 16 of the California Code of Regulations; and/or for
11 violating or attempting to violate, or assisting in or abetting the violating of, or aiding or abetting
12 or conspiring to violate section 1398.44 of Title 16 of the California Code of Regulations,
13 including subdivision (a), and/or (b), and/or (c), and/or (d), and/or (f), and/or (g), in that:

14 A. As the supervising licensed physical therapist, respondent did not
15 properly supervise all physical therapy services provided by the physical therapist assistant; and/or
16 failed to assure that the physical therapist assistant did not function autonomously [section
17 1398.44 of Title 16 of the California Code of Regulations]; and/or

18 B. As the supervising physical therapist, respondent was not readily
19 available in person or by telecommunication to the physical therapist assistant at all times while
20 the physical therapist assistant was treating patients; and/or as the supervising physical therapist,
21 respondent did provide periodic on site supervision and observation of the assigned patient care
22 rendered by the physical therapist assistant [section 1398.44 (a) of Title 16 of the California Code
23 of Regulations]; and/or

24 C. Respondent failed to document in the patient record, along with her
25 signature, the evaluation and when the patient was to be reevaluated [section 1398.44 (b) of Title
26 16 of the California Code of Regulations]; and/or

27 D. Respondent, as the supervising physical therapist, failed to
28 communicate verbally, or in writing, to the physical therapist assistant, prior to initiation of

1 treatment by the physical therapist assistant; and/or respondent, as the supervising physical
2 therapist, failed to determine which elements of the treatment plan could be assigned to the
3 physical therapist assistant, commensurate with the qualifications, including experience, education
4 and training, of the physical therapist assistant [section 1398.44 (c) of Title 16 of the California
5 Code of Regulations]; and/or

6 E. Respondent, as a supervising physical therapist, allowed the
7 physical therapist assistant to performed Physical Therapy Progress Evaluations (and Reports),
8 which can only be performed by a physical therapist [section 1398.44 (d) of Title 16 of the
9 California Code of Regulations]; and/or

10 F. Respondent, as the supervising physical therapist, failed to, within
11 seven (7) days of the care being provided by the physical therapist assistant, review, cosign and
12 date all documentation by the physical therapist assistant; and/or conduct a weekly case
13 conference and document it in the patient record [section 1398.44 (f) of Title 16 of the California
14 Code of Regulations]; and/or

15 G. Respondent, as the supervising physical therapist, failed to conduct
16 a regularly scheduled and documented case conference between the supervising physical therapist
17 and physical therapist assistant regarding the patient [section 1398.44 (g) of Title 16 of the
18 California Code of Regulations]; and/or

19 H. Respondent, as the supervising physical therapist, allowed the
20 physical therapist assistant to essentially practice independently and autonomously in the clinic
21 with his own schedule and without the required co-signatures or documented patient conferences
22 with respondent [section 2630 of the Code]; and/or

23 I. Respondent, as the supervising physical therapist, failed to properly
24 supervise aides, and/or allowed the physical therapist assistant to supervise aides and other
25 support personnel [section 2630 of the Code and section 1399 of Title 16 of the California Code
26 of Regulations] and/or

27 J. Respondent, as the supervising physical therapist, failed to provide
28 complete legible signatures in the patient treatment records [Standard of Practice].

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist License Number PT 23448, issued to AMY NICOLE KNIGHT;
2. Ordering AMY NICOLE KNIGHT to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 20, 2005

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant